

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ANTHONY AVERITT,

Plaintiff,

v.

CITY OF TACOMA,

Defendant.

No. C10-5249BHS/JRC

ORDER TO SHOW CAUSE

This is a civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff has been granted leave to proceed with this action in forma pauperis (Dkt. # 6). The court, having reviewed the file, hereby **ORDERS** plaintiff to show cause why this action should not be dismissed for failure to prosecute.

This action was commenced on April 7, 2010. One week later, on April 13, 2010, the clerk's office sent plaintiff a letter outlining defects in his filings (Dkt. # 2). The court needed a copy of the complaint, and a service form for the defendant. Plaintiff was given until May 14, 2010, to cure the defects and he was told that failure to cure the defects would affect the court's ability to serve the complaint. As of August 23, 2010, the court does not have service documents and the action has not been served.

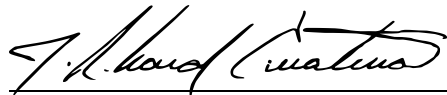
ORDER TO SHOW CAUSE - 1

1 Federal Rule of Civil Procedure 4(m) gives 120 days from filing to perfect service. If
2 service is not perfected in that time the court shall dismiss without prejudice unless the plaintiff
3 can show good cause why service was not made. Ignorance of the rules is not good cause.
4 Townsel v. County of Contra Costa, 820 F.2d 319, 320 (9th Cir.1987). The above analysis and a
5 plain reading of the rule would appear to indicate that dismissal without prejudice is in order, but
6 the standard of review is abuse of discretion, which indicates the Court has discretion in deciding
7 if dismissal is proper. Wei v. State of Hawaii, 763 F.2d 370, 371 (9th Cir. 1985).
8

9 Plaintiff has until September 17, 2010 to show cause why this action should not be
10 dismissed for failure to prosecute and failure to provide service documents.

11 The Clerk is directed to send copies of this Order to plaintiff and note the September 17,
12 2010, due date on the court's calendar.

13 DATED this 23rd day of August, 2010.
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16 J. Richard Creatura
17 United States Magistrate Judge
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